

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Joseph W. & Jean S. Garmon)	
	Dist. 2, Map 66A, Group A, Control Map 66A,)	Cumberland County
	Parcel 46.00)	
	Residential Property)	
	Tax Year 2007)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$50,800	\$376,600	\$427,400	\$106,850

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on September 5, 2007 in Crossville, Tennessee. The taxpayers represented themselves. The assessor of property was represented by his deputy, Mary Cox. Also in attendance at the hearing was Fred Wilson, an appraiser with the Division of Property Assessments.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family residence located at 15 Quill Court in Fairfield Glade, Tennessee.

The taxpayers contended that subject property should be valued at \$327,700. In support of this position, the taxpayers argued that the 2007 countywide reappraisal caused their appraised value and taxes to increase excessively. In addition, the taxpayers asserted that the current appraisal of their property does not achieve equalization as demonstrated by the assessor's lower appraisals of comparable homes. The taxpayers stressed that their home was appraised as an "improvement type 05" whereas the comparables are coded as "improvement type 03."¹ Finally, the taxpayers maintained that subject lot has been appraised in excess of its fair market value.

The assessor contended that subject property should be valued at \$402,000. In support of this position, the property record card and three comparable sales were introduced into evidence. Ms. Cox maintained that the comparables support the current appraisal of subject dwelling. However, Ms. Cox agreed subject lot was overvalued and recommended a 50% condition factor which results in a revised lot value of \$25,400.

¹ The State of Tennessee Computer Assisted Appraisal System (CAAS) Procedures Manual defines improvement type 03 as "Special residential properties unique to areas or to type of construction such as modular homes, log homes or cabins." Improvement type 05, in turn, is defined as "Single family residence normally containing more than 2,000 square feet and normally over 150 points. . ."

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$402,000.

Since the taxpayer is appealing from the determination of the Cumberland County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject property as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Similarly, the Commission has ruled on numerous occasions that the amount of taxes generated by a particular appraisal is irrelevant. See, e.g., *John C. and Patricia A. Hume* (Shelby Co., Tax Year 1991).

The administrative judge finds that the taxpayers' equalization argument must be rejected. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard when setting values for property tax purposes. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the

overall level of appraisal in the jurisdiction for the tax year in controversy.² The State Board has repeatedly refused to accept the *appraised* values of purportedly comparable properties as sufficient proof of the *market* value of a property under appeal. For example, in *Stella L. Swope* (Davidson County, Tax Years 1993 and 1994), the Assessment Appeals Commission rejected such an argument reasoning as follows:

The assessor's recorded values for other properties may suffer from errors just as Ms. Swope has alleged for her assessment, and therefore the recorded values cannot be assumed to prove market value.

Final Decision and Order at 2.

The administrative judge finds it irrelevant how the assessor has coded subject dwelling on the property record card. See *Devere M. Foxworth* (Polk Co., Tax Year 2001) wherein the Assessment Appeals Commission rejected the taxpayer's attempt to establish a lower value by attacking portions of the property record card. The Commission reasoned in pertinent part as follows:

The problem with evaluating a property tax assessment on the basis of the pieces of the assessor's record is at least two-fold. First, the pieces may not compare one to another, i.e., the value attributed by the CAAS system to a typical component may not represent the true contribution of the component as represented in the subject property. Second, the pieces are part of a whole that is merely a computer generated approximation of the legal standard of fair market value. The result for a particular property in the assessor's system may or may not yield fair market value. The appeal process therefore looks to more traditional methods of individual property valuation in order to be sure the legal standard has been met.

Final Decision and Order at 1.

The administrative judge finds that comparable sales normally constitute the best evidence of the fair market value of a residence. Respectfully, the taxpayers did not introduce any comparable sales into evidence. The administrative judge finds that if the assessor's sales are rejected for the reasons asserted by Mr. Garmon, the administrative judge would still have no choice except to affirm the current appraisal based upon the presumption of correctness attaching to the decision of the Cumberland County Board of Equalization.

Based upon the foregoing, the administrative judge finds that the taxpayers introduced insufficient evidence to establish the fair market value of subject property as of January 1, 2007. Nonetheless, the administrative judge finds that subject lot should be

² See Tenn. Code Ann. §§ 67-5-1604-1606. Usually, in a year of reappraisal – whose very purpose is to appraise all properties in the taxing jurisdiction at their fair market values – the appraisal ratio is 1.0000 (100%). That is the situation here.

appraised at only \$25,400 as recommended by the assessor of property. The administrative judge finds that the assessor's contended lot value established the upper limit of value and should be adopted regardless of the taxpayer's failure to establish a prima facie case.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$25,400	\$376,600	\$402,000	\$100,500


It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of September, 2007.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Joseph W. Garmon
Ralph Barnwell, Assessor of Property